



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,576	06/25/2003	Michael J. Hier	1-73893	3331

27377 7590 06/09/2006

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
----------	--------------

3616

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,576

Applicant(s)

HIER ET AL.

Examiner

David Dunn

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,9-11,17-19,21 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,9-11,17-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is responsive to the amendment filed April 4, 2006.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 9-11, 14, 17-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yves (FR 2 704 510) in view of Stuckle (DE 196 26 903).

Yves discloses a cross beam assembly (see Figures 5 & 6) comprising: an airbag (15); a beam (12); an inflator (13) disposed within the interior of the beam, wherein the inflator assembly is integrally formed in the beam such that a portion of the beam defines walls of the inflator (see Figure 6); and a chute (14) connected to the beam, the chute having a passageway in communication with an opening (16) in the beam. A pair of walls (17, 18) are disposed in the beam for housing the source of pressurized gas. Yves shows a door for covering the air bag (see Figure 3).

Yves fails to show the air bag being disposed in the chute.

Stuckle shows a cross beam assembly with an inflator (13) disposed within the beam (4); wherein a chute (5; see Figure 2) is connected to the beam, and the air bag (14) is disposed within the chute when in the folded condition.

Art Unit: 3616

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yves with the teachings of Stuckle to dispose the air bag within the chute when folded in order to better protect the air bag.

Regarding claim 10, Yves shows side walls being attached by a crimp in Figure 4; it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the embodiment of Figure 6 to provide the beam with a crimp in order to better hold the side walls. Regarding claim 11, the side walls are not clearly shown with a weld, however the chute is shown being attached to the beam with welding marks, and it is also noted that welding is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yves to attach the side walls with a weld in order to more securely hold the walls in place. Regarding claims 18 and 21, Yves shows a chute integrally formed with a door (see Figure 3); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the embodiment of Figure 5 to provide the chute with an integrally formed door to better secure the module in one piece.

Allowable Subject Matter

3. Claims 3, 4, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed 4/04/2006 have been fully considered but they are not persuasive.

Applicant argues the combination of Yves and Stuckle and states that the Examiner "may not simply fabricate a reason for combining the references." The examiner has not fabricated a reason to combine the references. The examiner stated that one of ordinary skill in the art would have been motivated to combine the references. It is maintained that one of ordinary skill in the art would recognize that an airbag provided in a chute, such as shown by Stuckle, would be provided with additional protection compared with the airbag of Yves which is left exposed.

Applicant argues that there is no reasonable expectation of success in combining the references. Applicant argues various feature of the mounting of the airbag of Yves. The examiner maintains that this combination would require only a simple modification. Additionally, it is old and well known in the art to place airbags within a chute (see, for example, GB 2,227,212 and US 6,126,195 which have previously been cited).

Applicant argues that the chute of Figure 3 is not connected to the beam. In response, it is noted that Figure 2 of Stuckle clearly shows the chute being attached to the beam by fastener 10. However, it is also noted that Stuckle is not relied upon for the teaching of the chute being attached to the beam, rather, as explained in the rejection above, Stuckle is relied upon to show the teaching of the airbag being disposed within the chute. The reference of Yves also shows the chute attached to the beam (see Figure 5), therefore, no modification is required regarding this feature.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

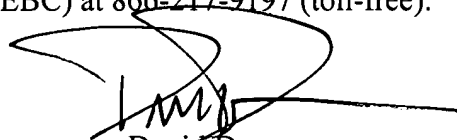
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'David Dunn', is written over a horizontal line.

David Dunn
Primary Examiner
Art Unit 3616